

April 26, 2022

Board of Zoning Adjustment

Burden of Proof Statement

This statement is submitted on behalf of DIBA ONE LLC (the “Applicant”), owner of the property located at 4320 7TH ST NW, in the RF-1 zone district. The property is located near the intersection of 7TH ST NW and VAR-NUM ST NW. The property currently has 1 existing structure, a single-family row house.

The Applicant is planning to convert an existing single-family residence into multi-family Apartment House. To do so, the Applicant is requesting a Special Exception under Subtitle U, Chapter 3, Section 320.2

320.2: Conversion of an existing residential building existing prior to May 12, 1958, to an apartment house shall be permitted as a special exception in an RF-1, RF-2, or RF-3 zone if approved by the Board of Zoning Adjustment under Subtitle X, Chapter 9, subject to the following conditions:

The following are the provisions required for granting a Special Exception, in bold below each point is evidence of how the proposed project meets each requirement.

- (a) The maximum height of the residential building and any additions thereto shall not exceed thirty-five feet (35 ft.), except that the Board of Zoning Adjustment may grant a special exception from this limit to a maximum height of forty feet (40 ft.) provided the additional five feet (5 ft.) is consistent with Subtitle U §§ 320.2(f) through 320.2(i);*

Proposed structure to be 34’-11” in height.

- (b) The fourth (4th) dwelling unit and every additional even number dwelling unit thereafter shall be subject to the requirements of Subtitle C, Chapter 10, Inclusionary Zoning, including the set aside requirement set forth at Subtitle C § 1003.6;*

Proposed 3 units, therefore no IZ is required.

- (c) *There must be an existing residential building on the property at the time of filing an application for a building permit;*

There is an existing residential building on the property.

- (d) *There shall be a minimum of nine hundred square feet (900 sq. ft.) of land area per dwelling unit;*

Proposed lot area is 3137 SF, or 1045.66 SF per unit.

- (e) *An addition shall not extend farther than ten feet (10 ft.) past the farthest rear wall of any adjoining principal residential building on any adjacent property;*

The applicant is not proposing any rear addition to existing structure. The new building has side set back from both side property lines.

- (f) *Any addition, including a roof structure or penthouse, shall not block or impede the functioning of a chimney or other external vent compliant with any District of Columbia municipal code on an adjacent property. A chimney or other external vent must be existing and operative at the date of the building permit application for the addition;*

Proposed structure would not impede the functioning of any chimney or external vent compliant with any district of Columbia code on any adjacent property. The proposed detached building would be more than 10 feet from any existing chimney.

- (g) *Any addition, including a roof structure or penthouse, shall not significantly interfere with the operation of an existing solar energy system of at least 2kW on an adjacent property unless agreed to by the owner of the adjacent solar energy system. For the purposes of this paragraph the following quoted phrases shall have the associated meaning:*

- (1) *“Significantly interfere” shall mean an impact caused solely by the addition that decreases the energy produced by the adjacent solar energy system by more than five percent (5%) on an annual basis, as demonstrated by a comparative solar shading study acceptable to the Zoning Administrator; and*
- (2) *“Existing solar energy system” shall mean a solar energy system that is, at the time the application for the building permit for the adjacent addition is officially accepted as complete by the Department of Consumer and Regulatory Affairs or*

an application for zoning relief or approval for the adjacent addition is officially accepted as complete by the Office of Zoning, either:

- (A) Legally permitted, installed, and operating or*
- (B) Authorized by an issued permit; provided that the permitted solar energy system is operative within six (6) months after the issuance of the solar energy system permit not including grid interconnection delays caused solely by a utility company connecting to the solar energy system;*

Adjacent properties do not have existing solar energy systems.

- (h) A roof top architectural element original to the house such as cornices, porch roofs, a turret, tower, or dormers shall not be removed or significantly altered, including shifting its location, changing its shape or increasing its height, elevation, or size. For interior lots, not including through lots, the roof top architectural elements shall not include identified roof top architectural elements facing the structure's rear lot line. For all other lots, the roof top architectural elements shall include identified rooftop architectural elements on all sides of the structure;*

The Applicant is not proposing to remove or alter any roof top architectural element. Existing Mansard, Dormers, and Porch Roof are proposed to remain.

- (i) Any addition shall not have a substantially adverse effect on the use or enjoyment of any abutting or adjacent dwelling or property, in particular:*
 - (1) The light and air available to neighboring properties shall not be unduly affected;*
 - (2) The privacy of use and enjoyment of neighboring properties shall not be unduly compromised; and*
 - (3) The conversion and any associated additions, as viewed from the street, alley, and other public way, shall not substantially visually intrude upon the character, scale, and pattern of houses along the subject street or alley;*

Proposed building would have minimal impact on the adjacent property on north.

- (j) In demonstrating compliance with Subtitle U § 320.2(i) the applicant shall use graphical representations such as plans, photographs, or elevation and section drawings sufficient to represent the relationship of the conversion and any associated addition to adjacent buildings and views from public ways;*

The architectural plans, elevations, and 3d images represent the relationships between the proposed project and adjacent properties.

- (k) The Board of Zoning Adjustment may require special treatment in the way of design, screening, exterior or interior lighting, building materials, or other features for the protection of adjacent or nearby properties, or to maintain the general character of a block;*

Proposed project will comply if required.

- (l) The Board of Zoning Adjustment may modify or waive not more than three (3) of the requirements specified in Subtitle U §§ 320.2(e) through § 320.2(h) provided, that any modification or waiver granted pursuant to this section shall not be in conflict with Subtitle U § 320.2(i); and*

Applicant is not seeking any waivers.

- (m) An apartment house in an RF-1, RF-2, or RF-3 zone, converted from a residential building prior to June 26, 2015, or converted pursuant to Subtitle A §§ 301.9, 301.10, or 301.11 shall be considered a conforming use and structure, but shall not be permitted to expand either structurally or through increasing the number of units, unless approved by the Board of Zoning Adjustment pursuant to Subtitle X, Chapter 9, and this section.*

Existing use is single family.

Granting a special exception will allow for the applicant to convert the existing single family into a 3-unit multi-family structure. The surrounding area is comprised of single family and multi-family Structures. This conversion will have minimal effect on the light, air, privacy, and views of the adjacent properties. Significant noise and traffic are not expected to become a factor with the completion of the project.